In the High Court of Punjab & Haryana at Chandigarh

FAO No.4425 of 2001 (O&M)

Date of decision: 9.8.2001

Smt. Beena and others Vs. Mahabir and others

CORAM: HON'BLE MR. JUSTICE UMA NATH SINGH

Present: Mr. N.K.Samghi, Advocate for Mr.Pardeep Kapoor, Advocate, for the appellants.

None for the respondents.

UMA NATH SINGH, J.

The service of notice is complete.

Heard learned counsel for the appellants and perused the record. This FAO arises out of a judgment/ award dated 19.9.1998 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Bhiwani, in MACT petition No. 106 of 1996, awarding a sum of Rs. 1, 73,000/- in death case of a truck driver of 30 years.

It appears that deceased Ram Dhari and driver of the offending truck (HRS-1296) Mahabir being from the same profession were on friendly terms. It further appears that both the drivers took meals in the house of Mrs. Beena on the date of accident i.e. 29.9.1996 at about 10.30 p.m. After meals, Mahabir asked Ram Dhari to help him in reversing his

truck. The deceased was giving signal to show that the road was clear. At that moment, all of a sudden Mahabir drove the vehicle at high speed while taking turn and as a result, the vehicle struck Ram Dhari and he came under its wheel. Thereafter, Mahabir ran away from the spot. Smt. Beena, wife of the deceased, Jai Bhagwan,and Gian Chand witnessed the accident. The deceased was shifted to General Hospital, Charkhi Dadri but he succumbed to the injuries on the way. Accordingly, an FIR was lodged on the statement of Raja Ram under sections 279 and 304-A IPC. The claimants filed a claim petition for a compensation of Rs. 10,00000/-, stating that the deceased was earning Rs.3,000/- salary per month. They also claimed compensation for the loss of consortium for widow, funeral expenses and loss of estate. The tribunal found the driver of the offending vehicle rash and negligent in driving. Though evidence was led to substantiate that the deceased was earning Rs. 3,000/- per month but in the absence of other evidence to corroborate, the Tribunal assessed his income at Rs. 2,000/- per month and after deducting 1/3rd , determined the dependency at Rs. 900/-. Further the multiplier of 16 was applied, and thus, the total amount was assessed Rs. 1,73,000/-.

I have learned counsel for the appellants and perused the record.

As per evidence on record, it appears that the deceased was aged about 30 years at the time of accident and he was employed as a driver on a truck. Though the Tribunal has found that the offending vehicle was being driven rashly and negligently, the assessment of income appears to be on lower side being without any basis. Undoubtedly, the accident took place way back in 1996 and the value of currency was comparatively higher, but the Tribunal should have taken a reasonable view in assessing the income of the deceased at par with a labourer. Today, in such cases, while assessing notional income of an able bodied unemployed person, normally it is calculated at Rs. 2500/- per month. Moreover, in the instant case, the deceased was a driver of a heavy vehicle. Thus, relying on the oral evidence led on behalf of the claimants, the income of the deceased is assessed at Rs. 30,000/- per annum. As per settled principle, on deducting 1/3rd being Rs. 1,000/- from Rs. 3,000/-, the dependency would come to Rs. 2000/- per month. As the deceased is stated to be survived by his widow, two minor children and mother, the multiplier of 16 applied by the Tribunal appears to be reasonable. Thus, the monthly dependency of Rs. 2,000/- on being

multiplied by 12, would come to Rs.24,000/- towards annual dependency. The said amount on being multiplied by 16 would come to Rs. 3,84,000/-. It also appears that the Tribunal has not given any amount towards funeral expenses, loss of estate and consortium. Therefore, I also award Rs. 5,000/- individually under these heads. Thus, on adding Rs. 15,000/- to dependency of Rs. 3,84,000/-, the total compensation would come to Rs. 3,99,000/-. Resultantly, the compensation of Rs. 1,73,000/- is enhanced to Rs. 3,99,000/-. The enhanced amount shall carry an interest at the rate of 6% per annum from the date of application. Accordingly, the FAO (being 4425 of 2001) is hereby allowed.

August 09, 2006 **(UMA NATH SINGH)**
dsg **JUDGE**